

### REMARKS/ARGUMENTS

Claims 1-2, 8-15, 17-25, 27-33, 37-41, and 43-47 are pending in this application, with claims 1, 25, 32, and 43 being the only independent claims. Claims 1, 24, 25, 32 are amended and claims 48-50 area added. Support for the amendment to claim 24 and new claims 48-50 is found in Fig. 13 and the associated text. Reconsideration of the application in view of above-identified in view of the above amendments and the following remarks is respectfully requested.

Claims 1, 2, 6-15, 17, 21, 23-25, 29, 30, 32, 33, 37-41, and 43-47 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,884,237 (Asbaghi) in view of U.S. Patent No. 5,429,612 (Berthier).

Independent claim 1 is amended to recite “one of said shield and said barrel defines a track arrangement having an entry track joined to a lockout track at an intersection, a first portion of said lockout track extending beyond said intersection to a first end of said lockout track and a second portion of said lockout track extending beyond said intersection to a second end of said lockout track”, “the other of said shield and said barrel includes a pin arranged on a resilient lever arm and guidable in said track arrangement”, and “said one of said shield and said barrel further comprises a blocking element arranged in said entry track proximate said intersection, said blocking element having a fixed blocking surface facing said lock-out track and blocking reentry of said pin into said entry track from said lock-out track”.

The combination of Asbaghi and Berthier fail to disclose the above-recited features of independent claim 1 because neither Asbaghi nor Berthier disclose the claimed blocking element at the intersection with a fixed blocking surface.

Asbaghi discloses a device for covering and protecting syringe needle which includes a base member 12 and a needle guard 14 (see col. 4, lines 35-27; and Figs. 1-2 of Asbaghi). The base member 12 is affixed to a retainer 36 of a blood collection vial 16 (col. 4, lines 61-67). A coil spring 38 is seated between the needle guard 14 and the retainer 36 to urge the needle guard 14 and the base member 12 in opposite axial directions (col. 5, lines 1-3).

Guide mechanisms 42a,b comprise slots arranged in the base member 12 in which plugs 40a,b of the needle guard 14 are received. Each guide mechanism 42a,b includes a locking cutout 44, an axially aligned linear track 46, a deflectable arm 48, and an axially aligned linear track 50 (see col. 5, lines 19-22). Since Asbaghi discloses a deflectable arm 48 within the path and a pin that is rigidly connected to the needle guard 14, Asbaghi fails to disclose "said one of said shield and said barrel further comprises a blocking element arranged in said entry track proximate said intersection, said blocking element having a fixed blocking surface facing said lock-out track and blocking reentry of said pin into said entry track from said lock-out track", as expressly recited in independent claim 1.

Berthier fails to disclose what Asbaghi lacks. Berthier discloses a syringe having a needle protector 8 arranged over a cylindrical slideway 7 with a track arrangement having a U-shaped groove 22 with two branches 23, 24 connected by a circumferential groove 25 (see col. 4, lines 35-39 of Berthier). A resilient tongue (i.e., pin) 26 of the needle protector 8 enters the track arrangement and moves along branch 23 against the urgency of a spring 20. Although Berthier discloses a pin disposed on a resilient arm, Berthier fails to disclose "one of said shield and said barrel defines a track arrangement having an entry track joined to a lockout track at an intersection, a first portion of said lockout track extending beyond said intersection to a first end of said lockout track and a second portion of said lockout track extending beyond said

intersection to a second end of said lockout track". Since Berthier fails to disclose the claimed structure of the track with an intersection, Berthier also fails to disclose "said one of said shield and said barrel further comprises a blocking element arranged in said entry track proximate said intersection, said blocking element having a fixed blocking surface facing said lock-out track and blocking reentry of said pin into said entry track from said lock-out track". Only the present invention discloses such a blocking element. The Examiner states that it would have been obvious to use the resilient pin of Berthier in the device of Asbaghi. However, Berthier does not teach an equivalent structure to the lever 48 of Asbaghi because the track of Berthier does not disclose an intersection that requires such a feature. There is no teaching or suggestion that the flexible lever 48 disclosed by Asbaghi would prevent re-entry of a resilient pin as disclosed in Berthier.

Accordingly, independent claim 1 is allowable over Asbaghi in view of Berthier.

Independent claims 25, 32, and 43 are allowable for the same reasons as are independent claim 1.

Dependent claims 2, 8-15, 17-24, 27-31, 33, 37-41, and 44-50 are allowable for the same reasons as are independent claims 1, 25, 32, and 43.

Dependent claims 24 and 48-50 each recite a pair of lockout tracks and "wherein the forward ends of said lockout tracks are axially offset so that said shield is held askew relative to said needle cannula by the urgency of said urging member when said shield is in the third position". The prior art fails to teach or suggest this limitation.

The application is now deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,  
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Dated: May 20, 2008